

# TUCSON SUPPLEMENTAL RETIREMENT SYSTEM BOARD OF TRUSTEES

Meeting Minutes for September 24, 2009, 8:30 a.m.

**Members Present:** Brian Bjorndahl, Chairman  
Cindy Bezaury, Human Resources Director  
Silvia Amparano, Finance Director  
Brandy Kadous, Employee Representative  
Gage Andrews, Employee Representative  
Jean Wilkins, Retiree Representative

**Absent, Excused:** Kevin Larson, City Manager Appointee

**Staff Present:** David Deibel, Board Counsel  
Allan Bentkowski, Investment Manager  
John Behrens, Finance Analyst, Investments  
Mike Hermanson, Retirement & Benefits Administrator  
Doris Rentschler, Finance Analyst, Retirement  
Michael Jesse, Management Analyst, Retirement  
Claire Beaubien, Board Administrative Assistant  
Jenefer Carlin, CTRA Representative

## A. Call to order

Chairman Bjorndahl called the meeting to order at 8:30 a.m., after determining that a quorum of Board members was present.

## B. Consent Agenda

1. Approval of August 27<sup>th</sup> Board meeting minutes
2. Retirement ratifications for the month of September 2009

Mike Hermanson introduced the newest member of the Retirement staff, Michael Jesse. Gage Andrews **moved, seconded** by Brandy Kadous, to approve the Consent Agenda as presented. **Motion passed 5 – 0** (Silvia Amparano absent at time of vote, Kevin Larson, absent, excused).

## C. Disability Applications

### 1. Disability Application Process – September 2009

Mike Hermanson explained that following the distribution of the draft disability application to board members at July's board meeting, Board members had provided staff with their suggestions and comments for the final draft. This month's agenda item discusses the revised version, adding the definitions provided for what constitutes a "total and permanent disability" and what a "substantial gainful activity" is. Mike indicated many comments were incorporated, but before discussing them, Gage Andrews mentioned these corrections: from the asterisked note at the top of page 2, there is a missing parenthetical (2) in the list of ways that ten years referenced can be earned; also the website referenced at the bottom of page 5 should be: [www.tucsonaz.gov/retirement2](http://www.tucsonaz.gov/retirement2). Finally, Gage asked about the coordination of long term disability and short term disability with a disability retirement, wondering if an applicant should be directed to these options first. Mike responded that this information was listed in the application to inform the applicant, and make them aware there are other avenues to pursue besides a disability retirement; but the information in the application emphasizes requirements for the application process.

Jean Wilkins thought that the first bullet point under Part 3 on the initial application should read: "An active application file gets created when Part 1 of your disability application is received and date stamped by Retirement Office Staff" instead of "...date-stamped received".

2. Board member policy considerations for post July 1, 2009 disability applications

Mike commented that the definition of "total and permanent disability" used in Sec. 22-30(ee) reads "Total and permanent disability means the inability to engage in any substantial gain activity with the City by reason of any medically determinable physical or mental impairment...". He asked whether the phrase "with the City" put unnecessary constraints on the Board. Does it imply that the Board has a responsibility to determine if there is a position available for an applicant? If the applicant is found able to perform any kind of gainful activity but there are no jobs available in the City, is that applicant deemed disabled? Mike asked whether that situation might influence the board's view of the issues on an application. Cindy Bezaury commented that she is not sure it is the responsibility of the Board to determine if the applicant is able to perform gainful employment outside the City because there have been disability retirees who have been gainfully employed elsewhere. Brandy Kadous commented that the reason this issue has been raised is because some applicants have applied for disability retirement have not requested accommodation from their hiring authority. An employer cannot force an employee to request accommodation, but if they ask for it, it must be considered. Mike suggested perhaps commentary could be added to the disability application summary so that the Board knows the applicant has been made aware they can request ADA accommodations, if they desire it.

Cindy commented that she would like to see the word "employment" inserted everywhere the phrase "gainful activity" shows up, so that they will read: "total and permanent disability" means the inability to engage in any substantial gainful employment activity by reason of any medically determinable...".

Jean Wilkins also requested that the paragraph that beginning with "The Board's determination will be..." should read: "The Board's determination shall be based on the medical evaluation and written report of the Board's doctor and/or other medical evidence obtained from any other medical professionals..." Cindy commented that she struggles to accept medical information from any one other than a physician. If the information is coming from a nurse practitioner, she was not sure that the nurse practitioner is qualified to diagnose or prescribe on behalf of the patient (applicant) in the same way as a physician. Doris commented that the Retirement Office has accepted reports from Physical Therapists because the applicant was seeing a therapist in conjunction with his personal physician. Dave Deibel commented that the applicant can see whomever they want to see. It is up to the Board to determine if the information provided supports the disability. Jean suggested that a new sentence be added that at the end of the language for the application process paragraph that reads: "All decisions regarding approval or denial of disability retirement benefits are made by the TSRS Board of Trustees. In the event of a denial of an application, an employee may re-apply, if they provide further information that supports the application."

Doris reflected on a question she experiences occasionally when an employee applies for a disability retirement: is she obligated to continue the process and schedule an evaluation by the City's Physician, regardless of whether she thinks the application has merit? In other words, should staff have the ability to perform a first-level review to determine if the application has merit? Gage asked under what conditions would an application fail to merit consideration? Mike offered an example, if an employee continues to work, he is probably not totally and permanently disabled and would appear to be able to perform any substantial gainful employment, and that would contradict the requirements for disability application. Dave Deibel counseled the Board that this is not a situation that the Board needs to address because there hasn't been any precedent set yet. Once there are precedents set, and a situation presents itself, then a solution could be discussed. Jean also suggested that the sentence describing substantial gainful employment activity should read as follows: "Member is unable to perform any work or activity for compensation for which they are reasonably qualified by education, training or experience."

Cindy Bezaury **motioned, seconded** by Gage Andrews, to approve the disability application and the definitions, as amended. **Motion passed 6 to 0** (Kevin Larson absent, excused).

### 3. Discussion of City Physician

Jean requested this item be placed on the agenda because the Board did not fully discuss this topic following the City's Physician's presentation during the July Board meeting. Jean indicated she had not been impressed with the doctor, nor does she approve of his evaluations of the disability applicants she has seen. She believes that the Board should search for a new doctor.

Chairman Bjorndahl commented that while he hasn't been too impressed with some of the doctor's evaluations, it is always the Board's discretion, to choose to discount the doctor's opinion in favor of the applicant's personal physician. As a matter of other considerations, Mike indicated that services performed by the City's physician are paid for by the City through a contract with Risk Management and not the TSRS Plan. If we want to proceed with looking for a new City physician, then we would need to establish what specific attributes or procedures we are looking for the doctor to perform, establish a listing of criteria for selecting a physician, and start a search using an RFP methodology so that we can have a cross section of bids for the work to be done. Additionally, the Plan would be contracting directly with the doctor and would then be obligated to pay for those services. That would be a different approach than what is used now, because much of that cost is borne by Risk, because the City physician's evaluation has historically been coincident, or closely related to a return to work evaluation, which is required when an employee has been on sick leave or leave without pay for an extended period.

Gage commented that he is concerned that the Board would be pitting the recommendations of the City's physician against the Board's physician (if the Board chose to seek a new physician). He said that he has agreed with the City's physician approximately 80% of the time. Brandy commented that, in light of the new definition of total and permanent disability, he would be willing to give Dr. Krasner another opportunity to see how his reports are written, to see if there is any change noted in his reporting. Cindy commented that Tucson Occupational Medicine is used for pre-hiring physical, they do all of the consultation for worker's compensation claims and for return-to-work questions. Silvia commented that she has experienced the worker's compensation claims process personally and found them to be very thorough, almost exceedingly thorough. Mike remarked that, based on Dr. Krasner's presentation at a recent Board meeting, he wasn't sure that the new definition would greatly impact his reports. Dr. Krasner appears to take a narrow and serious attitude evaluating whether a person meets the criteria that indicates they have a disability, and limits his reporting to the employee's physical limitations.

Brandy commented that Dr. Krasner was made aware of the new definition and it will only be a matter of time to see if the new definition makes any difference in his reporting. Silvia commented that she had more difficulty with the psychological disability issues over the physical disability applicants. Doris commented there have been a number of different doctors used for psychologically related applicants, with the current psychologist being used as the head of UMC Psychology Department. She also said that having different doctors' opinions are difficult to evaluate because none of them report the same way. It would be easier if the same psychologist was used every time. Gage commented that, in view of the various comments, he suggested the City Physician discussion be tabled until April, 2010. The Board concurred.

## D. Investment Activity / Status Report

### 1. Portfolio composition, transactions and performance

Allan Bentkowski reported that the balance of the portfolio at 8/31/09 was \$520 million, up by \$37 million from 6/30/09. The current balance at 9/23/09 is \$537 million, up \$17 million from 8/31/09 and up \$54 million from 6/30/09. As of 8/31/09, all managers are within their target allocation ranges and are moving close to their policy targets.

On September 29, 2009, slightly over \$2 million will be transferred to the City's investment pooled account to meet ongoing pension payment obligations. For the first time in two years, funds will be moved out of an equity manager's account; \$1 million from Pyramis Small Cap account. Another \$1 million will be

moved from PIMCO fixed Income, with a small amount from real estate. This is another good sign that the equity markets and managers are coming back.

Allan reported that August was another good month for strong absolute returns. Overall, the total fund was up 2.80% versus 2.47% for the benchmark. Both bond funds outperformed their relative benchmarks. Five out of nine equity managers were either at or outperforming their benchmarks. Total equities outperformed the Equity Composite 3.89% versus 3.84% for the benchmark.

There were strong calendar year-to-date returns with most managers, except real estate and infrastructure, posting double digit positive returns. On a relative basis, the total fund was up 9.78% versus 12.34% for the benchmark. Both bond funds continue to outperform their benchmarks. Returns for Total Fixed Income were up 11.90% versus 4.63% for the benchmark due to very strong returns from PIMCO. Six of nine equity managers were at or exceeded their benchmarks. Total equities posted a 16.36% return versus 19.03% for the Equity Composite benchmark.

Allan reported that excellent returns were posted by PIMCO StocksPlus, Pyramis, TCW Value and Causeway. Freiss and Artio continue to lag their benchmarks considerably on a calendar year-to-date basis. Real Estate continues to post weak negative returns.

For fiscal year-to-date, the returns continue strong and positive. Total fund returns are up 7.90% versus 8.33% for the Custom Plan Index. Total Fixed Income is up 4.19% versus 2.67% for the Barclays Aggregate Index. Total equities were up 12.24% versus 12.51% for the Equity Composite. Freiss is up 4.27%, although they are still lagging the benchmark. Artio is up 13.99%, slightly outperforming their benchmark. Real estate reports quarterly and the NCREIF-ODCE benchmark has not posted yet.

Allan commented that the economy is not out of the woods yet, although the Chairman of the Federal Reserve Board of Governors, Ben Bernanke, believes that the recession is over. Pessimism and unemployment remains high, though, and consumer spending is still very low.

#### E. Administrative discussions

##### 1. Revised Index for Board member books

Mike commented that there were revisions to the Index for the Board Handbook. He said that there were still a few items that are missing, in process and should be added soon.

##### 2. Program Description, Rules for Purchase of Service Program

Mike pointed out that there were a few minor adjustments to the program description, which is typically used as the rules governing the program. The last sentence in the first paragraph of the description was amended for clarification. This clarification was to remind members that purchase service credits of any type do not count towards vesting. An important addition to this document was clarification regarding purchase of service through pre-tax payroll deductions. It was necessary to ensure all members understand that this payment option is irrevocable. The Retirement Office is in the process of advising members who previously enrolled in the payroll deduction purchase of service that their agreement to participate in the pre-tax payroll deduction purchase of service is irrevocable. They will be asked to document their understanding of the irrevocability of this process. Dave Deibel commented that the Board has already approved this description as the rules for the program, this was just clarification for compliance issues. Therefore formal adoptions for these changes are not necessary.

##### 3. Program Description, End of Service Program

Mike included this document in the Board packet because it is good information for the Handbook. This topic will be on the October Agenda to discuss and act on the sunset provision for 12/31/2010.

##### 4. End of Service Program – Frequently Asked Questions from Membership

Mike posted these Frequently Asked Questions to the City's website and will be updated based on suggestions from members.

5. Follow-up on amendments to Tucson Code

Mike reported that the Mayor & Council approved the consent agenda item regarding the death benefits for members without further discussion.

6. Follow-up on website titling differences for Boards and Commissions

Mike reported that discussion has taken place with the City Clerk's office regarding the discrepancy on the name of the TSRS Board. They are in the process of correcting the name and the additional corrections requested to their Datapage.

7. Follow-up on IRS VCP Application

Mike indicated that our outside counsel, Cassie Langford, has indicated that the IRS has reviewed our voluntary compliance application, and accepted the proposal on the pickup problems with no further investigation or additional corrective actions. The other part of our application, for the determination letter is on hold (possibly 8 – 12 months) because there is a nationwide movement with all public entities submitting requests for a determination letter.

F. Article from Government Finance Review – Sustainable Pension and OPEB Plans

Mike reported that the article included in the Board packet was an interesting article written by a person who is on the same committee as Mike at the Government Finance Officers Association. Some of the board members recommended the article should be discussed further at the October Retreat.

G. Future Agenda Items

1. City Physician Discussion (April 2010)
2. Recommended Practice from GFOA – Conducting Actuarial Audit (October)
3. Sustainable Pension and OPEB Plans Article – discussion (October)
4. End of Service – Sunset (October)
5. BNYMellon – Securities Lending Presentation (October)

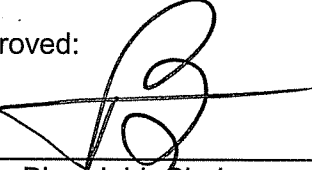
H. Call to audience

Jenefer Carlin asked if October was going to be the last month that retirees would be receiving the direct deposit statements until January. Mike confirmed that was correct, the next statement would be mailed in January. Jenefer wanted to know when the retirees would be notified about the change. Mike responded that it would be in the CTRA Newsletter. He said that a notice would be sent out in October, as well. She asked if the information would be available online. Gage replied that nothing is available at this time for a stand alone site for that purpose.


I. Adjournment

Cindy Bezaury **moved, seconded** by Gage Andrews, to adjourn the meeting at 9:59 a.m. **Motion passed 6 to 0** (Kevin Larson, absent, excused).

Approved:

  
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Brian Bjorndahl, Chairman

10-23-09  
Date

  
\_\_\_\_\_  
Michael Hermanson,  
System Administrator

10-23-09  
Date